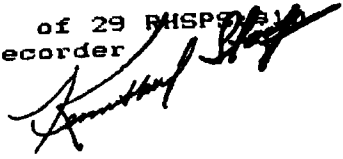


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BY Ken Staaf

Hidden Creek Subdivision
Declaration of Covenants, Conditions
Easements and Restrictions

**DECLARATION OF COVENANTS, CONDITIONS,
EASEMENTS AND RESTRICTIONS FOR
Hidden Creek Subdivision** 3

This DECLARATION (the Declaration) made this 20th day of July 2006, by DENNIS J. GILLIG and LINDA GAYLE GILLIG, (hereinafter referred to as the Declarant).

PREAMBLE:

Declarant is the owner of a certain parcel of real estate located in the Village of Roscoe, County of Winnebago, State of Illinois, legally described in Exhibit "A", attached hereto and incorporated herein (the "Property")

Declarant desires to submit the Property to the provisions of this Declaration.

NOW, THEREFORE, Declarant hereby declares that the Property shall be held, sold, transferred, occupied and conveyed subject to the following covenants, conditions, easements and restrictions, all of which shall run with the Property, and be binding on all parties having or acquiring any right, title or interest in the Property or any part thereof and shall inure to the benefit of each owner thereof.

ARTICLE I

**DECLARATION PURPOSES AND
PROPERTY SUBJECT TO DECLARATION**

Section 1.01. The Declarant desires to create on the Property a residential development for future owners of Lots as hereinafter defined for the following general purposes:

- a. The Declarant, by the imposition of covenants, conditions and restrictions and the reservation of certain powers unto itself, does intend to provide for the Property a plan for development which is intended to enhance and to protect the values of Declarant's residential community and maintain the development as a highly desirable community of homes; and
- b. The Declarant desires to provide for the maintenance of the wetlands and

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related wetland buffer areas located throughout the Property and to the extent a stormwater management facility is located on the property, provide for the maintenance, replacement and repair of such shared facilities and to the extent other lands become available for lease or gifted to the Association, provide for their maintenance.

Section 1.02. To further the general purposes herein expressed, the Declarant, For itself, its successors and assigns, hereby declares that the Property at all times is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions and restrictions herein set forth.

ARTICLE II

DEFINITIONS

The following words, when used in this Declaration or in any supplemental Declaration shall, unless the context shall prohibit, have the following meanings:

Section 2.01. Additional Property shall mean and refer to the real estate described later in this document, if any.

Section 2.02. Association shall mean and refer to Hidden Creek Lot Owner's Association, an Illinois not-for-profit corporation, as from time to time amended, its successor and assigns.

Section 2.03. Association Property shall mean and refer to the Wetland Lots, lots deeded to or leased to Association, and the Stormwater Detention Lots, if any, together with any and all improvements located thereon. Lots may mean "areas" of a lot if the lot has not been subdivided.

Section 2.04. Board shall mean and refer to the Board of Directors of The Hidden Creek Lot Owner's Association, an Illinois not-for-profit corporation; said entity shall govern and control administration and operation of the Property.

Section 2.05. By-Law shall mean and refer to the By-Laws of The Hidden Creek Lot Owner's Association, which are attached hereto as Exhibit (D) The By-Laws are incorporated into this Declaration by this reference. However, at the election of the Declarant, the Board may create the By-Laws after the Turnover Date.

Section 2.06. Common Area shall mean and refer to all real property and improvements thereon to be owned and maintained by the Association pursuant to the terms and conditions of this Declaration for the common use and enjoyment of all members of the homeowners association. Some areas of lots 47 and 48 will be so designated by Developer prior to Turnover Date.

Section 2.07. Common Area Lots shall mean those Lots owned and maintained by the Association which consist of Common Area only.

Section 2.08. Declarant or Developer shall mean and refer to Lester G. Popanz, as Trustee of the Lester G. Popanz Trust dated October 3, 2002, Mary E. Popanz, as trustee of the Mary E. Popanz Trust dated October 3, 2002 and Dennis J. Gillig and Linda Gayle Gillig. See Section 11.07 with regard to assignments where the Declarant changes.

Section 2.09. Drainage Plan shall mean the Subdivision Drainage Plan as created by the Subdivision Engineer in both text and drawing form and approved by the Village of Roscoe.

Section 2.10. Dwelling shall mean any building located on a Lot and intended for the shelter and housing of a Single Family, as hereinafter defined. Dwelling shall include any improvement attached or adjacent to the Dwelling utilized for storage of personal property, tools and equipment.

Section 2.11. Lot shall mean and refer to that portion of the Property indicated upon the recorded Plat of Subdivision.

Section 2.12. Member or Membership shall mean and refer to every person or entity that holds membership in the Association.

Section 2.13. Mortgage shall mean and refer to either a Mortgage or Deed of Trust creating a lien against a portion of the Property given to secure an obligation of the Owner of such portion of the Property.

Section 2.14. Owner shall mean and refer to the record owner, whether one or more persons, individuals or entities, of a fee simple title to any Lot, which is part of the Property, including contract purchasers, but excluding those having such interest merely as security for the performance of an obligation

Section 2.15. Plat of Subdivision shall mean and refer to the Plat of Subdivision for the Hidden Creek development recorded with the office of the Recorder of Deeds of Winnebago County, Illinois and all duly recorded amendments.

Section 2.16. Person shall mean and refer to a natural individual, corporation, partnership, trustee or other legal entity capable of holding title to real property.

Section 2.17. Property shall mean and refer to the real estate legally described in Exhibit "A", attached hereto and made a part hereof.

Section 2.18. Stormwater Detention Lots shall mean those Lots or areas shown on the Plat of Subdivision as Detention Areas, which are or may be owned by the

Association and on which stormwater maintenance facilities are constructed for the benefit of more than one lot.

Section 2.19. Single Family shall mean and refer to one or more persons, each related to other by blood, marriage or adoption or a group of not more than three (3) persons not all so related, maintaining a common household.

Section 2.20. Turnover Date shall have the meaning ascribed to such term in Section 4.07 hereof.

Section 2.21 Wetland Lots shall mean those Lots or areas shown on the Plat of Subdivision as Wetland areas. The Wetland Lots are to be maintained by the Association and owned either by the Association or a third party, a not-for-profit organization, the Village or any other governmental entity. The wetland lots or areas are within the boundaries of lots 47 and 48 and may be designated by a further subdivision or by other means.

Section 2.22 Letter of Transfer. That letter required by Section 5.07 prior to transfer of deed at a sale/closing.

ARTICLE III

GENERAL RESTRICTIONS

Section 3.01. Lots. All Lots, which are not Common Area Lots, Stormwater Detention Lots or Wetland Lots, shall be used for one Single Family dwellings only with a minimum size of 2100 square feet of finished living area on one floor for one-story dwellings or 2,300 square feet, with not less than 1,500 square feet on the first floor, for two-story dwellings, (basement areas are not included in square foot computations) with at least a three-car attached garage on the same general level. Each Owner shall maintain his Lot and all Improvements located thereon in a clean, sightly, and safe condition and shall at all times cause the prompt removal of all papers, debris and refuse therefrom. Before any building shall be occupied or used, a septic tank or other facilities approved by the Winnebago County Department of Health for the disposal of sewage shall be erected or installed on the lot, and the Lot Owner shall make adequate arrangements for sewage disposal so as to prevent any nuisance and any possibility of contamination. Each Lot Owner shall comply with all applicable requirements of the governmental bodies having jurisdiction over the property.

Section 3.02. Noxious and Offensive Activity. No noxious or offensive activity shall be carried on, in or upon the Property, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the Property. No plants or seed or other conditions, harboring or breeding infectious plant diseases or noxious insects shall be introduced or maintained upon any part of a Lot.

Section 3.03 Temporary Structures. No temporary building, Trailer, mobile home,

recreational vehicle, tent, shack or other similar Improvement shall, except as otherwise herein provided, be located upon the Lots.

Section 3.04. Waste. No person shall accumulate on his Lot or any Common Area Lot abandoned or junked vehicles, litter, refuse or other unsightly materials. Vacant Lots shall not be used for the purpose of raising crops thereon.

Section 3.05. Trucks, Boats and Recreational Vehicles. Trucks, boats, recreational vehicles or trailers shall at all times be parked in the garage of a Dwelling Unit located on a Lot. The repair or maintenance of any motorized vehicle shall not be permitted except within the confines of the garage of a Dwelling Unit.

Section 3.07. Pets. No animals, livestock or poultry of any kind shall be raised, bred, or kept upon any Lot, except that dogs and cats (not to exceed a total of four (4) such pets) or other common household pets may be kept, provided that they are not kept, bred, or maintained for any commercial purposes

Section 3.08. Exterior Antennae. The erection of any communication antennae or similar devices shall not be allowed unless screened from view from all streets and approved in writing in advance by The Developer prior to the Turnover Date or by the board after the turnover date. See Section 3.26 for approvals process.

Section 3.09 Drainage. All areas of the Lots designed or intended for the proper drainage or retention of stormwater, including swale lines and ditches, shall be kept unobstructed and shall be mowed regularly, including the Right of Way. No Owner shall alter the rate or direction of flow of storm water from any Lot by impounding water, changing grade, blocking or redirecting swales, ditches or drainage areas or otherwise. Each lot owner must adhere to the drainage plan of the subdivision, both in drawing and text. (See Erosion Control Section 3.25 also) Culverts within Rights of Way shall be of the size and elevation required to carry storm water according to the Drainage Plan of the Subdivision and shall take into consideration upstream and downstream sizes and elevations so proper drainage, rate of flow, and elevations are maintained.

Section 3.10. Increase in Insurance. No Owner shall permit anything to be done or kept on his Lot, the Common Area Lots or the Association Property which will increase the rate charged for or cause the cancellation of insurance carried by the Association on the Association Property or Common Area improvements or contents thereof, or which would be in violation of any law.

Section 3.11. Window Coverings. The covering of windows and other glass surfaces, whether by shades, draperies or other items visible from the exterior of any Dwelling Unit, shall be subject to the rules and regulations of the Board.

Section 3.12. Personal Business. The restriction in Paragraph 3.01 shall not, however, be construed in such a manner as to prohibit an Owner from: a) maintaining his personal professional library or office therein; b) keeping his personal business records or

accounts therein; or a) handling his personal or professional telephone calls or correspondence therefrom. Such uses are expressly declared customarily incident to the principal residential use and not in violation of said paragraph.

Section 3.13. Alterations. The Association Property shall not be altered in any way that materially adversely affects the Property.

Section 3.14. Advertising Signs. Except with respect to the Developer, no advertising sign (except one For Sale" sign of not more than five (5) square feet and during a one-day "Open House" or "Parade of Homes" week additional signs may be permitted upon application to the Association), billboards, unsightly objects, or nuisances shall be erected, placed or permitted to remain on any Lot, except that during the two (2) week period prior to and during the one (1) week period subsequent to, a primary or general election, one (1) political sign may be maintained on an individual Lot.

Section 3.15. Sales Activities. The Declarant may maintain without cost, in or upon such portions of the Property including a sold Lot or Dwelling Unit, as Declarant shall determine, such temporary facilities as in its sole discretion may be necessary or convenient, including, but without limitation, sales, construction and administrative offices, storage areas, model units, signs, temporary fencing, monuments and sales and construction trailers, or other items or improvements as otherwise required by Developer or Declarant

Section 3.16. Garbage. All rubbish, trash, or garbage shall be kept so as not to be seen from neighboring Lots and streets; shall be regularly removed from the Property, and shall not be allowed to accumulate thereon; and shall be placed out for collection on the driveway of the Lot at no other location. Garbage shall be placed in appropriate covered containers and kept in the garage until the designated day of pick-up. Under no circumstance shall the container impede access to streets, alleys or driveways of other Owners

Section 3.17. Intentionally left blank.

Section 3.18. Adversely Affect. An Owner of a Lot shall do no act nor show any condition to exist that will adversely affect the other Lots or the Owners of a Lot.

Section 3.19. Vehicles. All vehicles owned or maintained by occupants of a Lot, other than Developer or Declarant and other than temporary guests and visitors, shall be parked in garages to the extent that garage space available, and garages shall not be used for storage or otherwise so that they become unavailable for parking cars herein. Overhead garage doors must be kept closed on a consistent basis. Except for use by the Developer or the Declarant, no part of any of the Lots, including Common Area Lots, shall be used for storage use, including storage of recreational vehicles or overnight parking of mobile homes, trailers, trucks, vans, buses, commercial vehicles, snowmobiles or boats except within the confines of a garage and further excepting the temporary parking of such vehicles for no more than forty eight (48) hours. No repair or body work

of any motorized vehicle shall be permitted except within the confines of the garage. The Association is expressly authorized to enforce the provisions of this Section by ticketing and fining any Owner who violates this Section, and towing offending vehicles, trailers, boats, trucks, vans, buses or snowmobiles. All fines imposed and all expenses incurred by the Association in enforcing this Section, shall become an obligation owed by the subject Owner to the Association, and shall be a lien created and enforced as set forth in this Declaration. The Association is specifically authorized to enter into a contract with any local municipality or unit of government, or with any private firm or entity, to provide services reasonably required to enforce the terms and provisions of this Section.

Section 3.20. Utility Lines. No lines or wires for communication or the transmission of electric current or power shall be constructed, placed or permitted to be placed anywhere in the Property other than within buildings or structures or attached to their walls, unless the same shall be contained in conduits or approved cables constructed, placed and maintained underground

Section 3.21 Swimming Pools. No aboveground swimming pools are permitted within the Property, except portable child's swimming pool not greater than six (6) feet in diameter may be maintained and situated within a Lot.

Section 3.22 Outdoor Storage Sheds. There shall be no outdoor storage sheds permitted within the Property.

Section 3.23 Approval of Contractors and Sub-Contractors. The Declarant, and after the Turnover Date the Board, must approve the General Contractor or Sub-Contractors, for erection or construction of any improvement on any lot on the Property in writing, before any construction-building permit is taken out. The Declarant may in its sole judgment not approve of any General Contractor or Subcontractor. Approval by Declarant does not warrant the work of the contractor and is a matter solely between the Lot Owner and the contractor. The Lot Owner is responsible for the actions of their contractors and sub-contractors.

Section 3.24 Intentionally left blank

Section 3.25 Erosion Control and Drainage. Each Lot Owner shall provide for effective erosion control during construction and after construction and forever maintain the lot for effective erosion control. Prior to construction, a plan for construction drainage and permanent drainage must be approved by Declarant. Prior to Construction, a plan showing location of septic and well must be approved by Declarant in writing. This drainage plan, unless mutually modified, becomes a permanent part of the land and the lot owner is responsible for the maintenance and upkeep of the drainage plan perpetually. A drainage plan in two parts, one in text and one as a site drawing, for the subdivision has been prepared by the subdivision engineer and approved by the Village of Roscoe. Any departures from that drainage plan must receive approval by Declarant, or after Turn Over Date, the Lot Owner's Association. Approved changes shall be recorded by the lot owner with the Winnebago County Recorder's office. Drainage

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swales, diversions and other structures for the control and conveyance of storm waters across and from the individual lots will be or may be required to be constructed on each respective lot. Upon transfer of deed from Developer to Lot Owner(s) and thereafter, responsibility for maintenance and upkeep of any drainage swale or ditch, including "silting", in the public right of way, which abut their lot, becomes the responsibility of the abutting lot owner unless the Village of Roscoe shall become responsible. Lot owner's are expected to create such drainage swales on the perimeter's of their lot, as required or as directed by Declarant or by Subdivision Drainage Plan, to direct storm waters to approved drainage ditches or basins and not to direct storm waters across another lot except within adjoining perimeter swales or as approved by Declarant, in writing. (Proper silt fencing to keep silt from drainageways and streets, timely installed and maintained, is the law and a requirement of the Declarant and Association.) The Association shall be empowered to fine lot owner's for violations of this section and all fines imposed and all expenses incurred by the Association in enforcing this Section, shall become an obligation owed by the subject Owner to the Association, and shall be a lien created and enforced as set forth in this Declaration. The Association is specifically authorized to enter into a contract with any local municipality or unit of government, or with any private firm or entity, to provide services reasonably required to enforce the terms and provisions of this Section. In the event Declarant, or after the Turnover Date, the Association determines that storm water on any lot is not being directed as provided in the text and site drawing storm water plan for the subdivision, the Declarant shall serve notice to the Lot Owner of repairs or changes that must be made. If the Lot Owner does not make such repairs or changes within the time in the notice, then Declarant or after the Turnover Date, the Association shall be empowered to enter upon the Lot Owner's lot and make such repairs or changes as are necessary for the subdivision and its Lot Owners. The Association or Declarant is specifically authorized to enter into a contract with any local municipality or unit of government, or with any private firm or entity, to provide services reasonably required to enforce the terms and provisions of this Section.

Section 3.26. Approvals Process for Subdivision Improvements.

- (a) Except for Improvements constructed by Declarant or Developer, no Improvement, whether original or replacement, temporary or permanent, shall be constructed, placed or permitted on any Lot without the prior written approval of Declarant obtained in the manner hereinafter set forth. Approvals under this section shall not be arbitrarily or capriciously withheld but solely the decisions of the Declarant.
- (b) In order to secure Declarant's approval of any proposed Improvement or Improvements, the Owner shall submit to Declarant a complete set of the following:
 - (1) The Lot site plan showing, among other things, the location and dimension of all intended Improvements; and Drawings, Plans and Specifications of all exterior surfaces, showing elevations and grade, and including without limitation the color, quality and type of exterior construction materials. All of the foregoing hereinafter shall be

collectively referred to as the "Plans and Specifications". The Declarant shall publish a list of architectural guidelines, as amended from time to time, for the subdivision, which may require further documents or exhibits and form the basis for much, but not all, of the Declarant's decision.

(2) The construction of any structures or dwellings on any lot must be done according to the approved "Plans and Specifications." Any construction of any structure or dwellings on any lot not according to an approved set of "Plans and Specifications" shall be a material default of these covenants and conditions.

(3) NO work on any lot, other than "staking out" a lot may commence prior to approval, in writing, of the "Plans and Specifications."

(4) The Association or Declarant shall be empowered to fine lot owner's for violations of this section and all fines imposed and all expenses incurred by the Association or Declarant in enforcing this Section, shall become an obligation owed by the subject Owner to the Association, and shall be a lien created and enforced as set forth in this Declaration.

- (c) Within twenty-one (21) days after Declarant's receipt of the Plans and Specifications, an application, and supporting samples, if needed and as required by Declarant's Architectural Standards, Declarant shall notify Owner in writing whether such Plans and Specifications are approved or disapproved. Any such disapproval shall set forth the reason or reasons for such disapproval and shall list the changes required by the Declarant. If Declarant fails to so approve or disapprove the Plans and Specifications within said twenty-one (21) day period, then the Plans and Specifications shall be deemed to be approved. Declarant may require a face-to-face meeting with builder and/or lot owner prior to approval of plans. The twenty-one (21) day period may be extended to accommodate this meeting.
- (d) If Declarant shall disapprove all or any portion of the Plans and Specifications submitted as aforesaid, the Owner shall revise the Plans and Specifications to incorporate the changes required by the Declarant and shall deliver a set of revised Plans and Specifications to Declarant. Declarant shall have ten (10) days after its receipt of said revised Plans and Specifications to determine whether Owner has complied with Declarant's requested changes. If Declarant fails within said ten (10) day period to advise the Owner in writing whether Declarant approves or disapproves any such revised Plans and Specifications, then the revised Plans and Specifications shall be deemed to be approved. If Declarant shall disapprove all or any portion of said revised Plans and Specifications, Owner shall revise the Plans and Specifications in the manner set forth in this Section until such time as Declarant shall approve or be deemed to have approved said Plans and Specifications.
- (e) The Owner shall secure the approval of Declarant with respect to any material change or revision in any Plans and Specifications approved in accordance with this Section in the manner provided in this Section for the approval of Plans and Specifications.

- (f) Neither Declarant, nor any of its agents, employees, successors and assigns, shall be liable in damages to any Owner or to any other person submitting Plans and Specifications to any one or more of them for approval by reason of the withholding of consent or by reason of a mistake in judgment, negligence or nonfeasance arising out of or occurring in connection with the approval or disapproval or failure to approve or disapprove any such Plans and Specifications.
- (g) The provisions of this Declaration shall not apply to any Improvements installed or completed by the Declarant or any affiliate or subsidiary or person affiliated with Declarant or other entity or person controlled by or in common control with the Declarant.
- (h) The Association shall be empowered to fine lot owner's for violations of this sections and all fines imposed and all expenses incurred by the Association in enforcing this Section, shall become an obligation owed by the subject Owner to the Association, and shall be a lien created and enforced as set forth in this Declaration. The Association is specifically authorized to enter into a contract with any local municipality or unit of government, or with any private firm or entity, to provide services reasonably required to enforce the terms and provisions of this Section.
- (i) If this process is not used to secure approval and documented, then approval is not granted.

Section 3.27. Streets and Adjacent Lots. At any time after receiving title, especially during construction, and after, the lot owner is responsible for the actions of any of their contractors or sub-contractors, visitors or guests, and of the lot owner, its agents or associates or family. Streets and curbs shall be maintained, daily if necessary, to remove mud, dirt, waste, and gravel from the street. The lot owner shall not and shall not permit contractors or others to "stage" or use any other lot, common or adjacent, for parking or travel of vehicles or for access to their lot or any other place or lot. Damage to the streets, curbs, Association Property, and any other lots in the Property caused by their contractor or sub-contractors are the responsibility of the lot owner. The Association shall be empowered to fine lot owner's for violations of this section and all fines imposed and all expenses incurred by the Association in enforcing this Section, shall become an obligation owed by the subject Owner to the Association, and shall be a lien created and enforced as set forth in this Declaration. The Association is specifically authorized to enter into a contract with any local municipality or unit of government, or with any private firm or entity, to provide services reasonably required to enforce the terms and provisions of this Section. (Vehicular traffic or staging on a lot may render the lot useless for a septic system for which there would be serious fines and costs and damages.)

Section 3.28. Construction Rules. The Association may make and publish reasonable rules and fines so that during construction on lots the subdivision or adjacent lots are not adversely impacted in the sole judgment of the Association. The published list of fines, including a "catch-all" miscellaneous, has the same weight and authority as if they were a part of this document and may be modified and republished from time to time without notice. Construction and landscaping should be handled in a timely manner. In general,

unless otherwise agreed to with the Association, the construction of a dwelling shall be complete (exterior finished and certificate of occupancy obtained) within 12 months of first work commencing. The landscaping and exterior hardscape, generally driveway and walks, shall be completed no later than 180 days following substantial completion of the dwelling or the certificate of occupancy, whichever comes first unless otherwise agreed to in writing. In either case, the Association may grant extensions due to weather or other unforeseen circumstances.

ARTICLE IV

MEMBERSHIP AND BOARD OF DIRECTORS

Section 4.01. Membership Every Owner of a Lot shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Ownership of a Lot shall be the sole qualification for membership.

Section 4.02. Voting Rights. The Association shall have one class of membership and each Member shall have one (1) vote for each Lot said Member owns, provided that in no event shall more than one (1) vote be cast with respect to any one (1) Lot. If more than one (1) person is the record owner of any Lot, or if an Owner is a trustee, corporation, partnership or other legal entity, the vote for such Lot shall be exercised as such Owner or Owners of that Lot shall designate in writing, signed by all owners or other legal entity. Such designation shall be made in writing, signed by all Owners, to the Board or in such other manner as may be provided in the By-Laws.

Section 4.03. Board of Directors The Association shall be governed by a Board of Directors comprised of no less than three (3) persons, or such greater number as may be determined by Board resolution.

Section 4.04. Attendance and Meetings by Owners Members may attend meetings of the Board to the extent permitted by the Board in its discretion. It is not the intention that Members shall have the right to attend meetings of the Board in the same manner as provided for members of condominium associations under the Illinois Condominium Property Act. The Board shall hold informational meetings from time to time, but not less frequently than once each year, to which all Members shall be invited and at which the Board shall report to the Members on what the Board has worked on and accomplished since the preceding meeting and shall open the meeting for questions and comments from the Members.

Section 4.05. Officers. The Association shall have such Officers as shall be appropriate from time to time, who shall be elected by the Board and who shall manage and conduct the affairs of the Association under the direction of the Board. Except as expressly provided otherwise by the Articles of Incorporation or Bylaws, all power and authority to act on behalf of the Association, both pursuant to this Declaration and

otherwise, shall be vested in its Board, from time to time, and its officers under the discretion of the Board and shall not be subject to the approval of the Members. The Articles of Incorporation and By-Laws of the Association may include such added provisions for the protection and indemnification of its Officers and Directors as shall be permissible by law. The Directors and Officers of the Association shall not be liable to the Owners or others for any mistake of judgment or any acts or omissions made in good faith as such Directors or Officers.

Section 4.06. Director and Officer Liability. Neither the Directors nor the Officers of the Association shall be personally liable to the Owners of the Association for any mistake of judgment or for any other acts or omissions of any nature whatsoever as such directors or officers except for any acts or omissions found by a court to constitute fraud. The Association shall indemnify and hold harmless the Directors and Officers, their heirs and legal representatives, against all contractual and other liabilities to others arising out of contracts made by or other acts of the Directors and Officers on behalf of the Owners or the Association or arising out of their status as Directors or Officers unless any such contact or such act shall have been made fraudulently. The foregoing indemnification shall include indemnification against all costs and expenses (including, but not limited to attorneys' fees, amounts of judgments paid and amounts paid in settlement) actually and reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether civil, criminal, administrative or other, in which any such Director or Officer may be involved by virtue of being or having been such Director or Officer; provided, however, that such indemnity shall not be operative with respect to (i) any matter as to which such person shall have finally been adjudged in such action, suit or proceeding to be liable for fraud in the performance of his duties as such Director or Officer, or (ii) any matter settled or compromised unless, in the opinion of independent counsel selected by or in a manner determined by the Board there is no reasonable ground for such person being adjudged liable for fraud in the performance of his/her duties as such Director or Officer.

Section 4.07. Turnover. The Developer shall, through the Board appointed by Developer, exercise control over all Association matters, until the first to occur of the following events: a) twelve (12) years from the date of this Declaration, b) the sale and conveyance of legal title to all of the Lots to Owners other than Declarant or an assignee of Declarant as provided herein, or Developer elects voluntarily to turnover to the Members the authority to appoint the Board, which election it shall evidence by directing the Declarant to execute and record in the Office of the Recorder of Deeds of Winnebago County, Illinois an instrument setting forth its intention to so turnover its authority hereunder. The date upon which the authority to appoint the Board passes to the Members is hereinafter referred to as the Turnover Date. On or prior to the Turnover Date, the Developer shall cause Declarant to convey to the Association, and the Association shall accept, the Association Property, to be owned or leased by the Association hereunder and the Association shall undertake to maintain the Association Property pursuant to the terms hereof.

Section 4.08 Lot 12 special status Notwithstanding anything else in this document, Lot 12 shall be a non-voting member of the Association and shall not be obligated to pay dues or fees to the Association until such time as Lot 12 is sold or otherwise title is transferred, except via an estate, or construction is begun for any improvements on the lot. When either of these conditions is met, Lot 12 owners automatically become a full member of the Association and shall pay any dues or fees that might then be in force. Lot 12 is always subject to the rules and regulations as well as the other parts of these Covenants, Conditions, and Restrictions.

ARTICLE V

DUTIES AND POWERS OF THE ASSOCIATION

Section 5.01. General. The Association, through the Board, shall have the power and duty to:

- a. Maintain and manage and, if applicable, own the Association Property and, all other property acquired by the Association or which the Association agrees to maintain;
- b. Provide for the maintenance repair and replacement of the Association Property;
- c. Pay any real property taxes and other charges assessed against Association Property;
- d. Grant easements where necessary for public utilities over Association Property to Service any or all Lots;
- e. Adopt reasonable rules and regulations (including fines) for (i) controlling and limiting the use of Association Property, and (ii) supplementing any restrictions or provisions contained in this Declaration;
- f. Maintain such policy or policies of insurance, including, but not limited, to those described herein, at all times as the Board deems necessary or desirable in furthering the purposes of and protecting the interests of the Association and its Members, officers and directors;
- g. Employ a manager or other persons and contract with independent contractors, managing agents, collection agents and others to perform and effectuate all or any part of the duties and powers of the Association, if deemed necessary by the Board; provided, however, any contract with a person or firm appointed as a manager or managing agent shall provide for the right of the Association to terminate the same not later than thirty (30) days after the date of

the initial meeting of the Members of the Association is held as provided by the By-Laws;

- h. Enforce any easements or restrictions that may be set forth herein;
- i. Borrow money for the purpose of improving the Association Property. Notwithstanding the foregoing, no mortgage shall be placed upon the Association Property unless such mortgage is approved by the Board and by a majority of the Members, voting at a general or special meeting duly called and held in accordance with the By-Laws; establish such reserves as may be required hereunder or as the Board shall from time to time deem necessary to fulfill and further the purposes of the Association;
- j. Make such improvements to the Association Property and provide such other facilities and services as may be authorized from time to time by the affirmative vote of two-thirds (2/3) of the Members of the Association acting in accordance with its Articles of Incorporation and By-Laws, provided, however, that any such action so authorized shall always be for the express purpose of keeping the Property a highly desirable residential community;
- k. Sell, lease, dedicate or otherwise transfer title to the Association Property to any third party, including without limitation a not-for-profit organization, the Village or any other governmental entity without having to obtain the consent of the Members of the Association. In the event such a transfer occurs the Association shall continue to maintain the Association Property and charge assessments therefor in accordance with the terms of this Declaration, unless agreed to otherwise between the Board and such third party; and exercise any other right or powers given to the Association under this Declaration or under the Illinois Not-for-Profit Corporation Act.

Section 5.02. Maintenance of Association Property. The Association shall maintain, repair, and replace, all to the extent deemed by the Board to be beneficial and convenient, the wetlands and related wetland buffer areas located on Wetland Lots, as well as the stormwater management facilities located on Stormwater Detention Lots, together with such other areas, if any, for which the Association has or assumes responsibility pursuant to the terms of this Declaration or any supplement or amendment hereto, which shall include, but need not be limited to, the following:

- a. Grass, trees, shrubs, plantings, and other landscaping and any landscape buffers located within the Wetland Lots or the Stormwater Detention Lots, and lighting, fences, retaining walls, signs, and other structures and improvements located within or upon Association Property;
- b. Retention ponds (or basins), detention ponds (or basins), swales and storm sewers, located on Wetland Lots or Stormwater Detention Lots

Section 5.03. Watering. The Declarant reserves for itself and for the Association, their designees, successors and assigns, the right to attach hoses and other water sprinkling devices to and obtain water from water faucets located on the outside of any Wetland Lot or Stormwater Detention Lot in order to assist in caring out their duties and responsibilities as provided for herein. If said water faucets are "metered" to a particular Lot, the Owner of said Lot shall promptly be reimbursed by the Association as to said costs incurred, including electricity. The method of implementation in the amount of said reimbursement shall be decided by the Board based upon estimated water use at current water rates and the Owners whose water is to be used will be notified by the Board prior to the beginning of each landscaping season.

Section 5.04. No Maintenance of Lots. The Association shall have no obligation to maintain Lots or the landscaping on such Lots other than the Wetland Lots, Association owned or leased property, or the Stormwater Detention Lots, as the case may be.

Section 5.05. Intentionally left blank.

Section 5.06. Failure of Association to Maintain, Repair or Replace. In the event the Association or its successors and/or assigns, defaults on any of its Association Property maintenance or repair obligations described herein, including, but not limited to, maintenance of the Stormwater Detention Ponds and Wetland Lots, and such default continues for at least thirty (30) consecutive days after notice thereof in writing to the Board, the Village shall have the right, but not the obligation, with respect to all Association Property, to enter upon Wetland Lots and Stormwater Detention Lots, as necessary, to remedy the default or cause same to be remedied. In the event the Village undertakes the responsibility of repairing, maintaining, or replacing any portion of the Association Property, the Village shall have the right to charge the costs thereof back to the Association. In the event the Association fails to reimburse the Village for any such costs incurred by the Village within thirty (30) days following the Association's receipt of an invoice from the Village for such costs incurred, the Village shall have the right to record a lien upon the Property, or any portion thereof, with the Office of the Recorder of Deeds of Winnebago County, Illinois. The Village shall also have the right to collect its reasonable attorneys fees and court costs in enforcing the terms and conditions of this Declaration, as well as charge interest on monies advanced by the Village at the rate of eighteen percent (18%) per annum commencing with the date such costs are incurred through the date in which the Village has been fully reimbursed.

Section 5.07. Letter of Transfer. The Lot Owner shall request a letter of transfer of ownership prior to the closing of a sale and shall not permit a sale to close without the letter of transfer. The letter of transfer will state whether the lot complies, to the best of the Association's knowledge, with the covenants and restrictions and whether all fees, fines, or assessments are paid in full to the Association. The only fee, if any, for this letter is an administrative fee not to exceed actual costs of providing the letter or making any required inspections. The letter does not ensure that all governmental laws or codes on the lot have been complied with, nor does it guarantee that all drainage issues are

satisfactory, but is a good faith effort on the part of the Association that the property complies with these covenants and restrictions. A Buyer of any lot that does not receive this letter of transfer does so at his or her own peril as the fees, fines, and assessments run with the land and remedies needed to bring the property into compliance or approval also run with the land.

ARTICLE VI

EASEMENTS AND PROPERTY RIGHTS

Section 6.01. Easement in favor of the Village. A perpetual easement is hereby declared, reserved and created over, under, on, and across the Association Property, as necessary, in favor of the Village for the purpose of maintaining, replacing and repairing the Association Property in the event the Association fails to do so in accordance with the terms of this Declaration.

Section 6.02. Easement in favor of the Association. A perpetual easement is hereby declared, reserved and created over, under, on, and across the Association Property, as necessary, in favor of the Association for the purpose of maintaining, replacing and repairing the Association Property.

Section 6.03. Associations Access to Lots. The Association and its respective agents, employees and independent contractors shall have the right and license to enter upon any Lot to the extent necessary to exercise any right or responsibility of the Association as set forth in this Declaration, as to the Lot or the dwelling unit or other improvements situated thereon, or to the extent necessary to enforce any covenants or restrictions set forth herein and shall not be guilty of trespass.

Section 6.04 Title to Association Property. Declarant covenants for itself, its successors and assigns that it will convey or cause to be conveyed to the Association fee simple title or leases to Association Property within thirty (30) days prior to the Turnover Date, subject to:

- a. Covenants, conditions and restrictions then of record;
- b. The terms of this Declaration; zoning ordinances, development agreements and annexation agreements of record;
- c. Current real estate taxes, not yet due and payable (for which Declarant shall pay or make arrangements to pay its pro rata share);
- d. Utility easements granted or to be granted for sewer, water, gas, electricity, telephone, cable television and any other necessary utilities, if any;
- e. Reservation of easement for ingress and egress; and easements granted or to be

granted for the construction, maintenance, repair and use of improvements to be located on Association Property

Section 6.05. Easements Run With the Land. All easements and rights described herein are easements appurtenant running with the land, perpetually in full force and effect, and at all times shall inure to the benefit of and binding upon any owner, purchaser, mortgagee or to the person having an interest in the Association Property, or any part or portion thereof Reference in the respective deeds of conveyance or in any mortgage or trust deed or other evidence of obligation to the easements and rights described in this Article or in any other part of this Declaration shall be sufficient to create and receive such easements as fully and completely as though such easements and rights were recited fully and set forth in their entirety in such documents

ARTICLE VII

COVENANT FOR ASSESSMENTS

Section 7.01. Creation of the Lien and Personal Obligation for Assessments

Each Owner of a Dwelling Unit (excluding Declarant and Developer or any Lot or Dwelling Unit utilized by Developer of Declarant), by acceptance of a Deed therefor, whether or not it shall be so expressed in any such deed or other covenants, hereby covenants and agrees and shall be deemed to covenant and agree to pay to the Association, for each Dwelling Unit, owned by such Owner all assessments and charges levied pursuant to this Declaration. Such assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge and a continuing lien upon the Lot against which such assessment is made. Each such assessment, together with such interest and costs, shall also be the continuing personal obligation of the person who was the Owner of such Dwelling Unit at the time when such assessment fell due. The Association is authorized to levy assessments equally against all Dwelling Units within the Property, and each such assessment shall be paid by each Owner of a Dwelling Unit, to fund common expenses for the general benefit of all Owners.

Section 7.02. Purpose of Assessments. The assessments levied and collected by the Association shall be used for the general purpose of promoting the recreation, health, safety and welfare of the Members of the Association, specifically; assessments shall be used for the following purposes:

- a. Maintenance, repair, replacement and improvement of all Association Property, and all landscaping or other improvements located thereon, including without limitation any landscape buffers, retention ponds, detention ponds, or any other structures located thereon:
- b. Payment of premiums on insurance maintained by the Association pursuant to this Declaration; and
- c. To provide funds for the Association to carry on its duties or exercise its rights set forth herein or in its Articles of Incorporation or By-Laws or in the Illinois Not-For-Profit Corporation Act.

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Except with respect to the assessments to be deposited into the Capital Reserve Account, any and all annual assessments collected by the Association shall be held by the Board or its agent in an interest bearing account to the extent possible and practical (the "Operating Expense Account").

Section 7.03. Assessment Procedure -Annual Assessments.

a. Each year, on or before December 1, the Board shall prepare a budget for the Association for the ensuing twelve (12) months which shall include estimated cash expenditures and reasonable amounts as a reserve for repairs to and replacement of the Association Property, and for such other contingencies as the Board may deem proper, and shall, on or before December 15, notify each Owner in writing of the amount of such estimate, with reasonable itemization thereof. The budget shall also take into account the estimated net available cash income for the year, if any, that may be received by the Association. On or before the next January 1, following the preparation of the budget, and on the first day of each and every month for the next twelve (12) months, each Owner shall be personally liable for and obligated to pay to the Board or as it may direct, one-twelfth (1/12) of the assessment made pursuant to this paragraph. On or before May 1 of each year following the initial meeting, the Board shall supply to all Owners an itemized accounting, on an accrual or cash basis, of expenses for the preceding twelve (12) months together with a tabulation of the assessments and showing net excess or deficit, on an accrual or cash basis, of income over the sum of expenses plus reserves. Any such excess may, at the discretion of the Board, be retained by the Association and if so, shall be placed in the Capital Reserve Account (defined below).

b. If said annual assessments prove inadequate for any reason, including non-payment of any Owner's assessment the Board may, subject to the limitations on the use of capital reserves contained herein, charge the deficiency against existing reserves, or levy a further assessment which shall be assessed equally against all Lots subject to assessment. The Board shall serve notice for such further assessment on all Owners by a statement in writing showing the amount due and reasons therefor, and such further assessment shall become effective with the monthly installment which is due more than ten (10) days after delivery or mailing of such notice of further assessment. All Owners shall be personally liable for and obligated to pay their respective adjusted monthly assessment.

c. The failure or delay of the Board to prepare or serve the annual or adjusted estimate on any Owner shall not constitute a waiver or release in any manner of such Owners obligation to pay the maintenance costs and necessary reserves, as herein provided.

Whenever the same shall be determined, and in the absence of any annual estimate or adjusted estimate, the Owner shall continue to pay his monthly installment at the then existing rate established for the previous period until the

monthly installment which is due more than ten (10) days after such new annual or adjusted estimate shall have been mailed or delivered.

Section 7.04. Intentionally left blank.

Section 7.05. Special Assessments for Capital Improvement In addition to the annual assessments authorized above, the Board may levy special assessments for the purpose of defraying, in whole or in part, the cost of constructing or purchasing a specified capital improvement upon or to the Association Property and for the necessary fixtures and personal property related thereto, provided that, unless otherwise provided in the By-Laws, any such assessments which in one (1) year exceed Five Thousand and No/100 Dollars (\$5000.00) for all Lots involved shall first be approved by a majority of the Board and thereafter by a majority of the votes cast by the Members present at a general or special meeting duly called for that purpose or, in lieu of such Member's meeting, by an instrument signed by the Members owning two-thirds (2/3) of the Lots. Special assessments levied hereunder shall be due and payable at such time or times and in such manner as shall be fixed by the Board or, where applicable, as approved by the members, and shall be used only for the specific purpose for which such assessment was levied.

Section 7.06 . Capital Reserves. To the extent the annual budget includes an amount specifically designated as a capital reserve, that proportion of each installment of the annual assessments paid to the Association as the amount so designated as a capital reserve bears to the total annual budget shall be segregated and maintained by the Association in a special interest bearing capital reserve account (the "Capital Reserve Account) to be used solely for making repairs and replacements to the Association Property which the Association is obligated to repair and replace in accordance with the provisions of this Declaration, and for the purchase of equipment to be used by the Association in connection with its duties hereunder.

Section 7.07 Initial Operating Contribution. The Association shall collect from each initial purchaser of a Lot within the Property, at the closing of the sale of such Lot from Developer a sum equal to Two (2) months assessments based on the Association budget then in effect to be used for the operating needs of the Association. The Developer or the Board, as the case may be, shall deposit one (1) months worth of assessments received at each closing into the Capital Reserve Account and one (1) month's worth of assessments into the Operating Budget Account.

Section 7.08. Notice and Quorum. Written notice of any meeting called for the purpose of authorizing special assessments which requires approval of the Members shall be sent to all Members not less than thirty (30) days and nor more than sixty (60) days in advance of such meeting. At the first such meeting called, the presence of voting Members in person or by proxy having forty percent (40%) of the votes entitled to be cast shall constitute a quorum. If the required quorum is not present another meeting may be called subject to the same notice requirement and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting No such

subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 7.09. Collection of Assessments. Any installment of an assessment, which is not paid when due, shall be delinquent. If said installment is not paid within thirty (30) days after the due date, the Board may, upon notice to such Owner of such delinquency, accelerate the maturity of all remaining installments due with respect to the current assessment year, and the total amount shall become immediately due and payable and commence to bear interest from the date of acceleration at the maximum rate permitted by law. The Board may determine a monthly late charge for all delinquent assessments as determined in its sole and absolute discretion. The Association may bring an action against the Owner personally obligated to pay assessments and recover the same, including interest, costs and reasonable attorney's fees for any such action, which shall be added to the amount of such assessment and included in any judgment rendered in any such action. To the extent permitted by any decision or any statute or Law now or hereafter effective, the amount of any delinquent and unpaid charges or assessments, and any such accelerated installments, together with interest, late charges as determined by the Board, costs and attorney's fees as above provided, shall be and become a lien or charge against the delinquent Owners Dwelling Unit or Lot, as necessary, when payable and may be foreclosed by any action brought in the name of the Association. To the extent permitted by law, the board may bring an action in Forcible Entry and Detainer to collect any delinquent assessments. In addition, in the event an Owner fails to pay his/her assessments as provided in this Declaration, The Association shall have the right to deny such Owners access to the Association Property.

Section 7.10. Suspension of Voting Rights Due to Unpaid Assessments. The Association is authorized to suspend the voting rights of an Owner for any period during which any assessment against such Owners Dwelling Unit remains unpaid and delinquent and for a period not to exceed thirty (30) days for any single infraction of the published rules and regulations of the Association, provided that any suspension of such voting rights, except for failure to pay assessments, shall be made only by the Association or a duly appointed committee thereof, after notice and hearing given and held in accordance with the By-Laws or rules and regulations of the Association.

Section 7.11. No Waiver of Liability. No Owner may waive or otherwise escape liability for assessments provided for herein by non-use of the Association Property or abandonment of his Lot. Any claim by an Owner against the Association shall be by separate action and shall not be used as a defense or counterclaim to an action by the Association to collect assessments.

Section 7.12. Books and Records. The Board shall keep full and correct books of account in chronological order of the receipts and expenditures affecting the Association Property, and any other expenses incurred. Such records, and the vouchers authorizing the payments, shall be audited annually by an independent accountant or auditor retained by the Board and the audit report shall be made available for inspection by any Owner, or any representative of an Owner duly authorized in writing or any holder of a Mortgage, at

such reasonable time or times during the normal business hours as may be requested by the Owner or by the holder of said Mortgage. Upon five (5) days notice to the Board, any Owner shall be furnished a statement of his account setting forth the amount of any unpaid assessments, or other charges due and owing from such Owner.

Section 7.13. Funds in Trust. All funds collected hereunder shall be held and expended, for the purposes designated herein, and shall be deemed to be held in trust for the benefit, use and account of all the Owners. All funds not otherwise employed shall be deposited, from time to time, to the credit of the Association in such banks, trust companies or other depositories, as the Board may select.

Section 7.14. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage placed at any time on a Lot by a bona fide lender. Each holder of a First mortgage on a Lot who obtains title or comes into possession of that Lot pursuant to the remedies provided in the mortgage, foreclosure of the mortgage, or by deed (or assignment) in lieu of foreclosure, or any purchaser at a foreclosure sale, shall take the Lot free of any claims for unpaid assessments or charges which become payable prior to such acquisition of title, possession, or the Filing of a suit to foreclose the mortgage

ARTICLE VIII

INSURANCE

Section 8.01. General. The Board shall also have the authority to and shall obtain, with regard to Association Property only, comprehensive *liability* insurance, including liability for injuries to and death of persons, and property damage, in such limits as it shall deem desirable, and workers compensation insurance and other liability insurance as it may deem desirable, insuring each Owner, the Association, its Officers, members of the Board, the Declarant, and their respective employees and agents from liability and insuring the Officers of the Association and members of the Board from liability for good faith actions beyond the scope of their respective authority. Such insurance coverage shall include cross liability claims of one or more insured parties against other insured parties. The premiums for such insurance shall be common expenses payable out of the proceeds of the assessments required by and collected in accordance with the terms of this Declaration. The Association shall be further responsible for maintaining such policies of insurance on the Association Property and any improvements located thereon, against loss or damage by fire and such other hazards contained in the customary fire and extended coverage, vandalism and malicious mischief endorsements as the Association may deem desirable and may also obtain such other kinds of insurance as the Association shall from time to time deem prudent. The coverage shall contain an endorsement to the effect that said coverage shall not be terminated for non-payment of premiums without at least thirty (30) days prior written notice for the Association, the Insurance policies shall contain waivers of subrogation with respect to the Board, its employees, agents, and owners end mortgagees.

ARTICLE IX

SPECIAL DEVELOPER AND DECLARANT RIGHTS

Section 9.01. Developer as Association. Until the Turnover Date, the Developer shall have all the rights and powers herein granted to the Association and shall be authorized and empowered to take all such actions as the Board would have been authorized and empowered to take as herein provided. Prior to the Turnover Date, Developer shall have the right to appoint all the members of the Board of Directors.

Section 9.02. Developer Maintains Association. Prior to and until the Turnover Date, Developer may, in its sole and absolute discretion, elect to maintain the Association Property and may pay all expenses and costs in connection with the Association Property, and general real estate taxes payable in connection with same and such payments shall be credited against any amounts due the Association from Developer including any Subsidy Payments (as hereinafter defined). To the extent that any real property taxes payable after the Turnover Date are attributable to the period prior to the Turnover Date, Developer shall not later than the said taxes are due, pay to the Association that portion, if not all, of the tax bill attributable to said prior period.

Section 9.03. Developer Assessments Prior to Turnover Date. Notwithstanding anything contained in this Declaration to the contrary, prior to the Turnover Date, the Developer shall not be obligated to pay any amounts to the Association as an assessment (either general or special). Prior to the Turnover Date, the Developer may elect to pay to the Association payments (Subsidy Payments") in an amount equal to the difference between the actual expenses incurred by the Association (not including reserves) and the amount of the assessments paid by the Owners in accordance with the terms and conditions of this Declaration. Declarant shall make Subsidy Payments as needed, as determined by Developer, during such period. A Final accounting shall be made between Developer and the Association with respect to the Subsidy Payments as soon as practicable after the Turnover Date. The Developer shall not be responsible for the payment of any amounts to the capital reserve. Upon the turnover, the Developer shall have no further obligation for payment of the Subsidy Payments.

ARTICLE X

ANNEXING ADDITIONAL PROPERTY

Section 10.01. Additional Parcel. The Declarant, Developer, and their successors and assigns, hereby reserve the right and option, at any time and from time to time, within twelve (12) years from the date of the recording of this Declaration in the office of the Recorder of Deeds of Winnebago County, Illinois to add-on and annex to the Property, all or any portion of any property that is contiguous to the Property or may become contiguous by recording an amendment or amendments to this Declaration executed by the Declarant (every such instrument being hereinafter referred to as

Amendment to Declaration) which shall set forth the legal description of the additional parcel or parcels ("Additional Parcel") within the Future Development Parcel to be annexed to the Property. Upon the recording of every such Amendment to Declaration, the Additional Parcel shall be deemed submitted and governed in all respects by the provisions of this Declaration and shall thereupon become part of the Property. No portion or portions of the Future Development Parcel shall be subject to any of the provisions of this Declaration unless and until an Amendment to Declaration is recorded annexing such portion or portions to the property as aforesaid. The Owners shall have no rights whatsoever in or to any portion of the Future Development Parcel, unless and until an Amendment to Declaration is recorded annexing such portion to the Property as aforesaid.

Section 10.02. Amendments to Declaration Adding Additional Property. Every Amendment to Declaration shall include the legal description of the portion or portions of the parcel which shall add to the legal description of the Parcel that portion or portions of the Future Development Parcel annexed to the Property.

Section 10.03. Existing Mortgages. Upon recording of every Amendment to Declaration, the lien of every mortgage encumbering an existing Lot shall automatically be deemed to be adjusted and amended to encumber such Lot as set forth in such Amendment to Declaration.

Section 10.04. Binding Effect. Every Owner and every mortgagee, grantee, heir, administrator, executor, legal representative, successor and assign of such Owner, by such person's or entity's acceptance of any deed or mortgage or other interest in or with respect to any Lot, shall be deemed to have expressly agreed and consented to (i) each and all of the provisions of this Article; (ii) the recording of every Amendment to Declaration, and (iii) all of the provisions of every Amendment to Declaration which may hereafter be recorded in accordance with the provisions of this Article.

ARTICLE XI

GENERAL PROVISIONS

Section 11.01. Enforcement. Except as otherwise set forth herein, in addition to all other rights herein granted to the Association, the Association may enforce the provisions of this Declaration, the Articles of Incorporation, by-Laws and rules and regulations of the Association by any proceeding at law or in equity against any person or persons violating or attempting to violate any such provisions. All rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, and failure of the Association to enforce any such provisions shall in no way be deemed a waiver of the right to do so thereafter. All expenses incurred by the Association in connection with any such proceedings, including court costs and attorneys' fees, together with interest thereon at the highest interest permitted by law, shall be charged to and assessed against any Owner violating any such provisions and shall be added to and deemed a part of his assessment and constitute a lien on his Lot and be enforceable as provided herein. If any

Owner, or his guests, violates any provisions of this Declaration, the Articles of Incorporation, the Bylaws, or the rules and regulations of the Association, the Board may, after affording the Owner an opportunity to be heard, levy a reasonable fine against such Owner, and such fine shall be added to and deemed a part of his assessment and constitute a lien on his Lot and be enforceable as provided herein.

Section 11.02. Severability. Invalidation of any provision of this Declaration by judgment or court order shall not affect any other provision hereof, all of which shall remain in full force and effect.

Section 11.03. Title in Land trust. In the event title to any Lot is conveyed to a title-holding trust under the terms of which all powers of management, operation and control of the Lot remain vested in the trust beneficiary or beneficiaries, then the beneficiary or beneficiaries there under from time to time shall be responsible for payment of all obligations, liens or indebtedness and for the performance of all agreements, covenants and undertakings chargeable or created under this Declaration against such Lot. No claim shall be made against any such title-holding trustee personally for payment of any lien or obligation hereunder created and the trustee shall not be obligated to sequester funds or trust property to apply in whole or in part against such lien or obligation. The amount of such lien or obligation shall continue to be a charge or lien upon the Lot and the beneficiaries of such trust, notwithstanding any transfer of the beneficial interest of any such trust or any transfers of title of such lot.

Section 11.04. Amendments. The provisions of Article VI and Section 7.01 and this paragraph may be amended only by an instrument in writing setting forth such amendment signed and acknowledged by all Owners. The remaining provisions of this Declaration may be amended by an instrument in writing setting forth such amendment signed and acknowledged by the voting Members having at least seventy-five (75%) percent of the total votes of the Members or that is approved at a duly called and held general or special meeting of Members by the affirmative vote, either in person or by proxy, of the voting Members having a majority of the total votes of the Members and containing a certification by an officer of the Association that said instrument was duly approved, as aforesaid. No amendment shall be effective until duly recorded in the Office of the Recorder of Deeds of Winnebago County, Illinois.

Section 11.05. Special Amendment. Declarant reserves the right and power to record a special amendment ("Special Amendment") to this Declaration at any time, and from time to time which amends this Declaration (i) to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Federal Housing Association, the Veteran's Administration, or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities, (ii) to induce any of such agencies or entities to make, purchase, sell, insure, or guarantee first mortgages encumbering any Lot, or (iii) to correct clerical or typographical errors in this Declaration or any Exhibit hereto or any supplement or

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amendment thereto. In addition, a Special Amendment shall also be deemed to include, until the Turnover Date, such amendment to this Declaration as Declarant elect to record at any time and from time to time for any other purpose, so long as such amendment shall not materially impair the rights of the Owners hereunder or materially increase the expenses to be borne by them hereunder. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant to vote in favor of, make, or consent to a Special Amendment on behalf of each Owner as proxy or attorney-in-fact, as the case may be. Each deed, mortgage, trust deed, other, evidence of obligation, or other instrument affecting a Lot and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservations of, the power to the Declarant to vote in favor of, make, execute and record Special Amendments.

Section 11.06. Headings. All headings set forth herein are intended for convenience only and shall not be given or construed to have any substantive effect on the provisions of this Declaration, the singular shall include the plural wherever the Declaration so requires, and the masculine the feminine and neuter and vice versa.

Section 11.07. Assignment/Transfer. Notwithstanding anything herein to the contrary, Declarant and/or Developer reserve(s) the right to transfer, assign mortgage or pledge any and all of either respective privileges, rights, title and interests hereunder, or in the Property, by means of recording an assignment of such with the Office of the Recorder of Deeds of Winnebago County, Illinois. Upon such assignment, Declarant and/or Developer, as the case may be, shall be relieved from any liability arising from the performance or nonperformance of such rights and obligations accruing from and after the recording of such assignment. No such successor assignee of the rights of Declarant and/or Developer shall have or incur any liability for the obligations or acts of any predecessor in interest.

Section 11.08. Mailing Address. Each Owner of a Lot shall file the correct mailing address in writing of such Owner with the Association and shall notify the Association promptly in writing of any subsequent change of address; provided, however, that if any Owner shall fail to so notify the Association, the mailing address for such Owner shall be the common Street address of the Lot owned by such Owner. The Association shall maintain a file of such addresses. A written or printed notice, deposited in the United States mails, postage prepaid, and addressed to any Owner at the last address filed by such Owner with Declarant shall be sufficient and proper notice to such Owner shall be deemed delivered on the third (3rd) day after deposit in the United States mails.

Section 11.09. Notices. Any notice required or desired to be given under the provisions of this Declaration to any Owner shall be deemed to have been properly delivered when deposited in the United States mail, postage prepaid, directed to the person who appears as the Owner at his last known address, all as shown on the records of the Association at the time of such mailing. While it is the intent of the Declarant and the Association to provide suitable notice when a violation of these Conditions and Declarations shall occur, if the situation, in the determination of the Association, is of

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urgent need or requires an immediate response to preserve any lot or Association Property, the Association or Declarant may take action without notice.

Section 11.10. Binding Effect. Except for matters discussed in Article IX of this Declaration, the easements created by this Declaration shall be of perpetual duration unless cancelled in a written document signed by ninety percent (90%) of the Owners after the Turnover Date. The covenants and restrictions of this Declaration shall run with and bind the land, and shall insure to the benefit of and be enforceable by the Association or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns.

Section 11.11. Building Codes. All structures within the Property shall be constructed in accordance with applicable governmental building codes and zoning ordinances of the Village. If and to the extent there any conflicts between this Declaration and the provisions of any ordinances, codes, rules and regulations of the Village, such conflicts shall be resolved by the application of the more stringent provision as between this Declaration and such ordinance, code, rules and regulations of the Village.

Section 11.12. Fertilizers and Hazardous Materials and Lawn Watering. All storm water drains into Dry Creek, a tributary of the Rock River. To minimize the costs of maintaining the stormwater management system, to avoid pollution, and to protect downstream water quality, the application of lawn chemicals, including pesticides, shall be held to a minimum. Owners will be held responsible for the application of lawn care chemicals to their Lot. Lawn and garden fertilizers and soil amendments should be applied in accordance with recommendations developed through soil tests to avoid over application. All fertilizers, amendments, and pesticides should be applied at recommended rates. Granulated slow release fertilizers are recommended; the use of liquid fertilizers is discouraged because they are more soluble and more likely to damage the storm water management system. Special care must be taken when using pesticides that are toxic to fish and aquatic organisms. In the event a storm water facility is being damaged by nutrient or chemical loading, the Association shall have the right, without notice, to enter upon any Lot tributary to that facility to obtain a soil sample for testing. When tests demonstrate that lawn chemicals have been applied at excessive rates, the Association may fine the Owner of each such Lot, which may cover the costs of the soil testing and repairing the damage to the storm water management facility. No Owner shall maintain or place, nor cause or permit to maintain or place, any hazardous substances upon the Property as defined by Section 3.14 of the Environmental Protection Act (415 ILCS 5/3.14). The Association shall have the right to cause the removal of any such hazardous substances at the sole cost and expense of the offending Owner. Lawn watering, especially when establishing or refurbishing a lawn, shall not be watered to excess so that there is substantial run-off into drainage swales and ditches and the storm water retention areas or to cause erosion on or in such drainage areas.

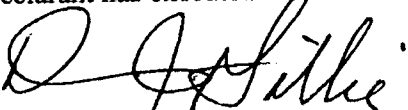
Section 11.13 Fence Restrictions. No fences shall be located in any areas designated on the Plat of Subdivision as a landscape easement area. No fence shall be located in front of the line formed by the front of any improvement located upon a Lot, as

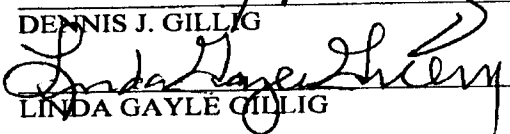
extended to the side Lot lines. On corner Lots, side yard fences cannot extend beyond the building line setbacks. Fences are discouraged but all fences constructed upon the Property, shall be in accordance with Village ordinances, shall not be more than four feet (4') high, shall not be "chain link", and shall be approved by the Board prior to an Owner erecting a fence on his or her Lot. Notwithstanding anything contained herein to the contrary, the Association shall have the right upon thirty (30) days prior written notice to the Owner to remove any fence erected by an Owner on his/her respective Lot which unreasonably obstructs overland flow routes or drainage swales located on the Property. The costs incurred by the Association to remove such a fence shall be charged back to the Owner of the Lot where the fence was located.

Section 11.14 Lots 16, 47 and 48. Parts of these lots may be further subdivided, as well as lot 16. It is the intention of the Developer to deed or lease parts of lots 47 and 48 to the Association prior to any further subdivision or to deed some part of the subdivided lots to the Association. The further subdivision may also permit additional lots when and if public sewer or public water is brought to the property. At that time or before, lot 16 may be further subdivided subject to application to the Village of Roscoe. In either lots 47 and 48 or lot 16, neither the association nor any Lot Owner will object to the subdivision. No other lots may be subdivided. Lots 47 and 48 are not part of the Association except to the extent that the Developer shall lease, sell, or grant such property to the Association. It is the intent of the Developer to lease or grant parts of those lots, specifically the detention and wetland areas, to the Association prior to the Turnover Date.

Section 11.15 Mailboxes. Only mailboxes, lettering on them, and support posts approved by the Association may be used in the subdivision. Masonry supports are specifically prohibited. Consult architectural guidelines for further details.

The Declarant has executed this Declaration on the date set forth above.


DENNIS J. GILLIG


LINDA GAYLE GILLIG

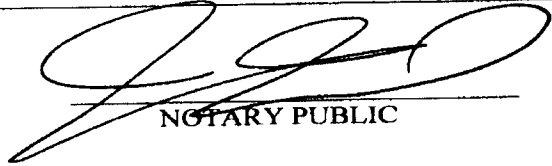
STATE OF ILLINOIS)
) SS
COUNTY OF WINNEBAGO)

I, JAMES J. Kowalski, a Notary Public, in and for said County, in the State aforesaid, do hereby certify that DENNIS J. GILLIG and LINDA

0644501 07/27/06 03:17P 28 of 29
Ken Staaf, Winnebago County Recorder

GAYLE GILLIG, married to each other and personally known to me to be the same persons whose name is subscribed to the forgoing instrument appeared before me this day in person and acknowledged that he signed the Declaration as his own free and voluntary act for the uses and purposes therein set forth.

Given under my hand and notary seal this 20th Day of July, 2006, at


NOTARY PUBLIC

Prepared by and return to:
Dennis J. Gillig
1040 S. Arlington Heights Road, Suite 104
Arlington Heights, IL 60005



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Ken Staaf, Winnebago County Recorder